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SUBJECT: JAPAN, THE U.S., AND TIP: AT A TIPPING POINT?

Classified By: CDA J. P. Zumwalt for Reasons 1.4 (b, d)

¶1. (C) SUMMARY: Following an unprecedented multi-year, multi-agency effort to meet TVPA (Trafficking Victims Protection Act) minimum standards, the Government of Japan has indicated at a high level that it is considering no longer cooperating with the United States in providing information for the Annual Trafficking in Persons (TIP) Report. Japanese government officials uniformly believe that the TIP report does not apply objective criteria across countries, is inaccurate in terms of factual details relating to Japanese laws and anti-TIP efforts, and selectively uses unsubstantiated anecdotes to make its case. The sensitivity of this issue to bilateral relations can be expected to increase with the apparent decision to keep Japan at a Tier 2 level again despite continued improvements in many areas this year. This cable reviews the record of Japan's "Comprehensive National Action Plan to Combat Trafficking in Persons" (2004). Mission Japan judges that Japan's anti-TIP efforts have been effective and would be models of cooperation. END SUMMARY.

The Action Plan

¶2. (U) Shocked by a Tier 2 Watchlist ranking in 2004, and wanting to seize leadership in Asia on this issue, the Japanese government established an Inter-Ministerial Liaison Committee to draft a national plan of action to address trafficking in persons. The task force consisted of the Cabinet Secretariat, Cabinet Office, National Police Agency, Ministry of Justice, MOFA, and the Ministry of Health Labor and Welfare, (and has recently been enlarged to include the Gender Equality Bureau, and the Human Rights Bureau). This task force proposed a National Action Plan, which was adopted in December of 2004. Since adopting the plan, the task force has continuously reviewed it in cooperation with NGOs.

Amendments to Laws

¶3. (U) As a center piece of the plan, Japan strengthened laws criminalizing TIP and TIP-related criminal activities by amending many existing laws, including the Penal Code, Code of Criminal Procedure, Law for Punishment of Organized Crimes, Employment Security Law, Law on Control and Improvement of Amusement Businesses, Immigration Control and Refugee Recognition Act, Law for Punishing Acts Related to Child Pornography and Child Prostitution, and the Child Welfare Law, as well as other laws and statutes. These laws now clearly and unambiguously outlaw both TIP for sexual exploitation and TIP for labor exploitation. (NOTE: G-TIP argues that Japanese laws do not cover the recruitment of laborers using knowingly fraudulent or deceptive offers for purposes of forced labor. Japanese prosecutors vigorously disputed this allegation. END NOTE.)

Approval of Trafficking Protocol

14. (U) In June of 2005 the Japanese Diet approved the conclusion of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children. For what it characterizes as technical reasons, Japan has not yet approved the so-called "mother convention" of this protocol, the "U.N. Convention Against Transnational Organized Crime." So although Japan is not a signatory to the broader convention yet (though it indicates it wants to as soon as is feasible), it has legally acceded to the provisions of the convention that relate to TIP.

Prevention: (External)

15. (SBU) Japanese prevention efforts have focused on the use of immigration control methods to reduce the number of trafficking victims entering the country, combined with a vigorous program to greatly reduce the number of illegal (and hence vulnerable) foreigners in the country. One of the centerpieces of these efforts has been a crackdown on the "entertainer" category of visa that had been identified as the prime means of bringing TIP victims into the country. As a result, the numbers of people entering on this category of visa fell from 133,103 in 2003 to 38,355 in 2007 (with this downward trend continuing in 2008). Coupled with this, training of consular personnel at Japanese embassies and consulates in source countries, and of immigration personnel in TIP victim identification methods, has also increased the difficulty of trafficking foreign victims into the country.

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(NOTE: So vigorous has been these prescreening methods that complaints have been received from a number of Human Rights and Women's Rights groups that young single women arriving in Japan who match Japanese Immigration criteria are subjected to unwarranted and extensive interviews before being allowed to stay in Japan. Nonetheless, in the 20-30 year-old age category, unlike all other age categories where more men enter Japan than women, in 2007 for example 1,049,719 women entered Japan compared to 801,145 men. END NOTE.)

Prevention: (Internal)

16. (SBU) Coupled with attempts to stem the flow of potential victims into the country, there has been a major effort to reduce the number foreigners illegally living in Japan. This has resulted in a decrease in these numbers from a peak of 298,646 in 1993 to 149,785 in 2008. Recognizing the need of the Japanese economy for low skilled foreign workers (for smaller companies in particular, and for the so-called "dangerous, dirty, and difficult" jobs which Japanese no longer want to do), the government expanded its Trainee Visa program. The number of workers entering the country on this program increased over the same period (1993 to 2008) from 39,795 to approximately 100,000 in 2008.

Protection: (Internal)

17. (SBU) The heart of Japan's efforts to protect TIP victims is a system of 47 Prefectural Women's Shelters combined with a USD 300,000 per year contract with IOM (International Organization for Migration) to assist in screening TIP victims, and resettling them in their home countries. The government has worked consistently year-by-year to improve the shelters for TIP victims. Recent improvements include the addition of a new program to train multilingual counselors in TIP issues, and an expanded range of activities available at the shelters.

Protection : (External)

18. (SBU) The most innovative and proactive of Japan's attempts to fight TIP has been the funding for a number of anti-TIP programs in source countries. Often contained in

its Human Security development programs, Japan has annually contributed about USD 8.7 million to specific anti-TIP programs in source countries. Japan also annually hosts international, regional, bilateral and domestic anti-TIP conferences and symposia to improve levels of cooperation, and identify best practices.

Significant Progress: Always Finally Considered Insignificant?

¶9. (C) Every TIP report since 2004 has praised Japan for making "significant progress" in its anti-TIP efforts. In 2005 the report went so far as to state, "The foundations that the Government of Japan has laid offer promises of results that would place Japan in a leadership role in fighting trafficking." Takeshi Hiramatsu, Director of MOFA's International Organized Crime Division, has become increasingly critical of the TIP process and the United States handling of TIP reporting. He stated to Embassy Tokyo, "I have never seen the Japanese government undertake such a concerted effort across so many different bureaucracies and agencies. And frankly, after sending teams to look at TIP efforts in other countries, we have concluded that the rankings are simply not objective."

¶10. (C) The TIP reports from 2006 through 2008 focus on two issues as the main reasons for not granting Tier 1 status. First, across these three years Japan is cited for the large portion of suspended sentences given to traffickers. Interpreted minimum sentencing guidelines under the TVPA call for an incarceration period of at least one year. In fact given that Japanese courts rarely grant bail, most of these traffickers in fact have served two years in jail during pretrial detention and the legal proceedings themselves. The second issue cited across these three years of TIP reports relates to the declining numbers of victims identified from the peak in 2005. The reports themselves concede that observers state the TIP problem in Japan in response to government efforts has assumed forms that are more difficult to track. No credence is given in the reports to government claims that a reduction of 94,748 in the number of entertainer visas granted, and a reduction of 148,861 in the number of illegal overstays in the country, and a greatly

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increased scrutiny at consular and immigration officer levels, has had a significant effect on the scale of the problem.

¶11. (C) COMMENT: If new safeguards were to be put in place, Japan's Trainee Visa program could be considered a model of how to fight labor trafficking. At present it does not sufficiently protect the "trainees" especially during the first year of what is normally a three-year program. Abuses have been reported and are of concern. The program however is a largely successful attempt to reduce the vulnerability of migrants to labor trafficking by replacing large segments of the underground economy with monitorable and protectable, legal work situations. Japan has a TIP problem and while its responses are not perfect, they are without question, substantial and significant. Given that the TIP problem in Japan has, as a result of Japanese government proactive measures, shifted into forms that are more difficult to police (as is common with Tier 1 countries), if the goal of U.S. policy is victim-centered, it may be time to consider a shift from an adversarial approach to Japan, which now is in danger of backfiring, to a cooperative approach in which the two countries spearhead a new international effort to deal with TIP using innovative, proactive strategies that also significantly address the problem at the level of root causes. END COMMENT.

ZUMWALT